



## ***Texas Department of Insurance***

### ***Division of Workers' Compensation***

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## ***MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION***

### ***GENERAL INFORMATION***

#### **Requestor Name and Address**

PINE CREEK MEDICAL CENTER  
9032 HARRY HINES BLVD  
DALLAS TX 75235

#### **Respondent Name**

WAUSAU UNDERWRITERS INSURANCE

#### **Carrier's Austin Representative Box**

#01

#### **MFDR Tracking Number**

M4-09-9407-01

#### **MFDR Date Received**

JANUARY 15, 2009

### ***REQUESTOR'S POSITION SUMMARY***

**Requestor's Position Summary:** "Patient was scheduled to have an anterior lumbar interbody fusion at L3-4, posterior lumbar decompression with posterior lateral fusion and pedicle screw instrumentation at L3-4, services were authorized prior to the date of service. After the patient was prepped for surgery and anesthesia was given, the decision was made to cancel the surgery because due to the patient's blood pressure. The implant devices that were going to be used for surgery, were opened but not used, thus, the facility was unable to use them at a later date. If the procedure is discontinued after the beneficiary has received anesthesia or after the procedure was started, the hospital may receive full payment amount for the discontinued procedure. That's because even though the procedure was discontinued, the hospital still had to provide the pre-op care, nursing staff, supplies, operating room, recovery room, implants, ect..."

**Amount in Dispute:** \$19,130.32

### ***RESPONDENT'S POSITION SUMMARY***

**Respondent's Position Summary:** "We base our payments on the Texas Fee Guidelines and the Texas Department of Insurance/Division of Workers' Compensation Commission's Acts and Rules. We have received the medical dispute filed by for services rendered to...for the 06/18/2008 date of service. The bill and documentation attached to the medical dispute have been re-reviewed and we are not recommending additional payment. Our rationale is as follows: The provider billed the 06/18/2008 date of service incorrectly. The provider billed for an inpatient admission when the claimant was discharged within 7 hours of admission. If you examine the UB04, the date of admission and discharge are the same. Box 12 lists the admission date at 06/18/2008 Box 13 admission hour is listed at 11:00 am. The discharge hour is listed at 15:00. The itemization only lists charges for 06/18/2009 [sic] and there was no documentation submitted to support that the patient stayed greater than 23 hours which would warrant an inpatient billing. The patient was discharged home via PACU at 15:47 on 06/18/2008. I have attached the UB04 and the PACU discharge notation for your review. Liberty Mutual believes that Pine Creek is not due any additional reimbursement since they did not correctly bill for services rendered to...for the 06/18/2008 date of service."

**Response Submitted by:** Liberty Mutual Insurance Company, 2875 Browns Bridge Road, Gainesville, GA 30504

## SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 18, 2008	Cancelled inpatient procedure requiring anesthesia, after anesthesia was administered	\$18,987.24	\$0.00

## FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated September 11, 2008

- X398 — BILLING INCOMPLETE. (X398)
- B406 — DOCUMENTATION NOT SUBMITTED OR INSUFFICIENT TO ACCURATELY REVIEW THIS BILL. (B406)
- X129 — PROCEDURE NOT DOCUMENTED IN OPERATIVE REPORT. (X129)
- X466 — DOCUMENTATION SUBMITTED DOES NOT SUBSTANTIATE UNUSUALLY COSTLY AND UNUSUALLY EXTENSIVE SERVICES. PLEASE PROVIDE DOCUMENTATION INCLUDING, BUT NOT LIMITED TO, DOCUMENTATION OF COST, MEDICAL RECORDS, INVOICES AND ITEMIZED STATEMENT. (X466)

Explanation of benefits dated April 18, 2009

- X398 — BILLING INCOMPLETE. (X398)
- B406 — DOCUMENTATION NOT SUBMITTED OR INSUFFICIENT TO ACCURATELY REVIEW THIS BILL. (B406)
- X129 — PROCEDURE NOT DOCUMENTED IN OPERATIVE REPORT. (X129)
- X466 — DOCUMENTATION SUBMITTED DOES NOT SUBSTANTIATE UNUSUALLY COSTLY AND UNUSUALLY EXTENSIVE SERVICES. PLEASE PROVIDE DOCUMENTATION INCLUDING, BUT NOT LIMITED TO, DOCUMENTATION OF COST, MEDICAL RECORDS, INVOICES AND ITEMIZED STATEMENT. (X466)
- X598 — CLAIM HAS BEEN RE-EVALUATED BASED ON ADDITIONAL DOCUMENTATION SUBMITTED; NO ADDITIONAL PAYMENT DUE. (X598)

### Issues

1. Do the services in dispute meet the definition of inpatient services?
2. Is the requestor entitled to additional reimbursement for the disputed services?

### Findings

1. Applicable 28 Texas Administrative Code §134.404(d) states, in pertinent part, "For coding, billing, reporting, and reimbursement of health care covered in this section, Texas Workers' Compensation system participants shall apply Medicare payment policies in effect on the date a service is provided with any additional or exceptions specified in this section..." The Medicare policy that contains the definition of inpatient hospital services is found at [www.cms.gov](http://www.cms.gov), *Medicare Benefit Policy Manual, Chapter 1*. Section A which states:

Inpatient hospital services are defined in Title XVIII of the Social Security Act (the Act) and in the regulations (42 CFR 409.10):

A. Subject to the conditions, limitations, and exceptions set forth in this subpart, the term "inpatient hospital or inpatient CAH services" means the following services furnished to an inpatient of a participating hospital or of a participating CAH or, in the case of emergency services or services in foreign hospitals, to an inpatient of a qualified hospital: 1. Bed and board....

The documentation found indicates that patient was admitted at 11:00am, anesthesia was administered, and that the surgical procedure was then cancelled. The patient was moved to the PACU and then discharged from the PACU at 3:47pm. Although review of the medical bill finds that the requestor billed the services as a

hospital inpatient admission, no documentation was found to support that the injured employee was provided room and board. The requestor billed the services in dispute as an inpatient admission but the services provided do not minimally meet the definition of an inpatient admission under the applicable Medicare policy. The division concludes that the provider did not bill in accordance with Medicare policy, thereby failing to meet the requirements of §134.404(d).

Furthermore, the division notes that discontinued services are to be billed and paid under OPPTS (outpatient) in accordance with *Medicare Claims Processing Manual Chapter 4 – Part B Hospital*, Section 20.6.4. Paragraph A. of that section requires that “Modifier -74 is used by the facility to indicate that a procedure requiring anesthesia was terminated after the induction of anesthesia...due to extenuating circumstances or circumstances that threatened the well being of the patient.” This Medicare policy further supports that discontinued services such as those in dispute should not be billed as Inpatient services.

2. The requestor failed to meet the requirements of 28 Texas Administrative Code §134.404(d), for that reason, no reimbursement can be recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	February 28, 2013
Signature	Medical Fee Dispute Resolution Manager	Date

### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**